1945

File No. Cotton Gin & Press II/45

Legal Draft

B **BRANCH**

Subject:— Rules & Notifications made the Bombay Cotton Ginning & Pressing Factories Act 1925

3/1945

Cotton Gin & Press II

File No. 45

Form 101 a.

478-B

Office of the R.L.A.

Sections 3B and 3C of the Cotton Ginning and pressing Factories Act, 1925 empower the Provincial Government to authorise any gazetted officer to exercise the functions described in the sections. It is proposed to declare three officers as gazetted officers in order that they may be authorised to inspect factories under section 3C of the Act. The question whether the posts which the three officers mentioned at page 63 respectively hold should be converted into gazetted posts is for the Reconstruction Department to decide in consultation with the Political and Services Department and Finance Department. After a decision has been reached on this point the Reconstruction Department should send a draft notification under section 3C of the Act for scrutiny.

Sd/-

D/10

For Remembrancer of Legal Affairs.

U.R. to P.& S.D. No.7483, dated the 10th October 1945.

RHB.
14.7.

Office of the R.L.A.

The question referred to the Remembrancer of Legal Affairs for consideration is whether it is feasible to declare the Assistant Cotton Superintendent, Dharwar, and the Cotton Overseers, Hubli, and Gadag, (referred to at page 63 ante) to be gazetted officers for the purposes of sections 3-B and 3-C of the Cotton Ginning and Pressing Factories Act 1925.

2. The answer to the question is in the negative. Section 3-B of the Cotton Ginning and Pressing Factories Act, 1925, authorises the Provincial Government or any gazetted Officer authorised by it in this behalf to cause the examination of any cotton, package or of any bale of cotton in respect of which a contravention of sections 3-A or 3AA is alleged. Section 3-C empowers the Provincial Government to authorise any gazetted Officer to enter into and inspect any cotton ginning or cotton pressing factory for the purpose of ascertaining whether any of the provisions of the Act or rules made thereunder have been contravened. These sections contemplate that the Officer to be authorised by the Provincial Government must first be a gazetted officer. Rule 9(21) of the Bombay Civil Services Rules defines a gazetted servant as one who is a member of an All India or Provincial service or a person appointed in accordance with the terms of a contract or agreement and whose appointment is gazetted by Government. Under the Exception to what rule certain Government servants (e.g. Mamlatdars, Mahalkaris) are treated as gazetted Government servants although the conditions in the clause have not been fulfilled. Unless the Cotton Superintendent and Overseers referred to are made gazetted officers or treated as such by including them in the Exception to Bombay Civil Services Rule 9(21) it will not be feasible to authorise them under section 3-B or 3-C.

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3. The analogy of Government Resolution Revenue Department No. 5807/39 dated 28-5-42 suggested by the Political and services Department and Revenue Department is not relevant for the purposes of the question under consideration. By that Government Resolution Mahalkaris are included in the Exception to Bombay Civil Services Rule 3(21) and treated as gazetted officers. The Government Resolution does not appoint them as gazetted officers for the purpose of section 51 of the G.P.C.

Id/- P.N.L.
23/12/45.

Remembrancer of Legal Affairs.

U.R.to R.C.D.No.9713, dated the 29th December 1945.

RRm.
14.7.